HIGH COURT OF UTTARANCHAL AT NAINITAL.

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 1394/2005 (S/S)
With WP No. 1395/05 (S/S)
Awadesh Prasad and Dhanbir Chand
Vs.
State and others

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 18.03.2006

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1394 of 2005 (SS)

Awadesh Prasad s/o Sri Dal Singar
Villa Khailadiya, Tehsil Khatima
District Udham Singh Nagar ..... Petitioner.

Versus.

1. State of Uttaranchal
2. Director of Education, Dehradun
3. Joint Director of Education,
   Garhwal Division. Pauri Garhwal
4. Joint Director of Education,
   Garhwal Division, Pauri Garhwal ..... Respondents

Writ Petition No. 1395 of 2005 (SS)

Dhanbir Chand s/o Sri Mandhir Chand
Village Nagalatarai, Tehsil Khatima,
District Udham Singh Nagar ..... Petitioner

Versus

5. State of Uttaranchal
6. Director of Education, Dehradun
7. Joint Director of Education,
   Garhwal Division. Pauri Garhwal
8. Joint Director of Education,
   Garhwal Division, Pauri Garhwal ..... Respondents

Sri B.S. Khanka, Advocate for the petitioner

Standing Counsel for the respondents.

Dated: 18.3.2006

Hon'ble Rajesh Tandon, J.

Heard Sri B.S. Khanka, counsel for the petitioners and learned Standing Counsel for the State/ respondents.

The petitioners have prayed a writ of mandamus directing the respondents to consider the case of the petitioners for appointment on the post of Assistant Teacher in L.T. Grade in accordance with the recruitment Rules 1983, after giving him quality point marks for their teachers' trainings degree.

Briefly stated, the petitioners have applied for the post of Assistant Teacher in L.T. Grade in Kumaon & Garhwal Region. According to the petitioners they have applied for the aforesaid posts in pursuance of the advertisement dated 20th October 2004 & 4th November 2004. They possess all the requisite qualifications and are eligible to be appointed for the said posts. The petitioner came to know that their candidatures have been rejected on the ground that they have passed B.Ed. from National Correspondent Institute, Kanpur which is not recognized.

Grievance of the petitioners is that the respondents did not grant quality point marks of their B.Ed. degree due to which they could not be selected for appointment as Assistant Teacher, L.T. Grade.

The quality point marks are to be given in accordance with the Rule 15 of the U.P. Subordinate Educational (Trained Graduates Grade) Service Rules, 1983 which are contained in Appendix-D, the same is quoted as below:-

S.No.	Name of Examination	Quality Points
(i)	High School	The % of Marks/10
(ii)	Intermediate	The % of Marks x 2/10
(iii)	Graduate Degree	The %of Marks x 4/10
(iv)	Training Theory Ist Division- II nd Division III Division Practical- Ist Division IInd Division IIIrd Division	 12 06 03 12 06 03
(V)	Post Graduate Degree Ist Division IInd Division IIIrd Division	 15 10 05

The Division Bench of Hon'ble the Apex Court in the case of Dr. M.A. Haque Vs. Union of India, 1993 (2) S.C.C. Pg. 213 has held as under:-

"....We are also conscious of the fact that candidates in service have a disadvantage as against the fresh candidates in the tests particularly when they face the tests after a long lapse of time. As against this, however, we cannot lose sight of the fact that the recruitment rules made under Article 309 of the Constitution have to be followed strictly and not in breach. If a disregard of the rule and the by-passing of the Public Service Commission are permitted, it will open a back-door for illegal recruitment without limit. In fact this court has, of late, been witnessing a constant violation of the recruitment rules and a scant respect for the constitutional provisions requiring recruitment to the services through the Public Service Commission. It appears that since this Court has in some case permitted regularisation of the irregularly recruited employees, some Governments and authorities have been increasingly resorting to irregular recruitments. The result has been that the recruitment rules and the Public Service Commission have been kept in cold storage and candidates dictated by various considerations are being recruited as matter of course......"

10. Rule 15. of the U.P. Subordinate Edu.(Trained Grad Grade) Service Rules , 1983 provides Procedure for direct recruitment, which reads as under:-

"1. (a) The Regional Deputy Director of Education concerned shall in respect of the vacancies of both branches (Men's and Women's Branch) to be filled by direct recruitment, advertise the vacancies subject-wise, along with the number of vacancies to be reserved for the candidates belonging to the Scheduled Castes/Tribes and other categories of persons in at

least two leading newspapers, one having wide circulation in the region and the other in the State, and invite applications for direct recruitment in the proforma given in Appendix 'C'. Such advertisement shall, inter alia, mentioned the pay and allowances relating to the posts, minimum academic qualifications for appointment thereto and such other information as may be considered necessary.

(b). The application referred to in Clause (a) shall be sent by registered post, to the Regional Deputy Director of Education within three weeks from the date of publication of advertisement in the newspaper, so as to reach the office of the Regional Deputy Director of Education on or before the last date of receipt of application mentioned in the advertisement.

(c). The application referred to in Clause (a) shall be accompanied by-

(i) a fee of fifteen rupees in the form of Crossed Postal Order payable to the concerned Regional deputy Director of Education:

Provided that such fee shall in the case of candidates belonging to the Scheduled Castes and Scheduled Tribes be five rupees:

(ii) a self-addressed envelope; and

(iii) other documents as may be required.

(d) No application sent in accordance with Clause (b) or (c) shall be taken into consideration.

2. The Regional Deputy Director of Education shall scrutinize the applications and shall cause the lists of candidate to be prepared of the basis of quality points specified in Appendix 'D'. The Regional Deputy Director of Education

shall place the lists along with the applications before the Selection Committee.

3. There shall be a Selection Committee for selection of candidates for appointment by direct recruitment comprising:

(i) Appointing Authority.

(ii) The Regional Deputy Director of Education or the Regional Inspectress of Girls Schools, who is not appointing authority,

(iii) Regional Assistant Director of Education (Basic).

The appointing authority shall be the Chairman.

4. The Selection Committee shall, after considering the cases of candidates on the basis of lists referred to in sub-rule (2), prepare subject-wise lists of selected candidates for appointment in L.T. Grade in order of merit as disclosed by the quality points complied under sub-rule (2). If two or more candidates obtain equal quality points, the name of the candidate who is older in age shall be placed higher in list. The number of names in the list shall be larger (but not larger by more than twenty five percent) than the number of vacancies advertised under sub-rule (1).”

Sub rule (4) of Rule 15 of U.P. Subordinate Educational (Trained Graduates Grade) Service Rules 1983 reads as under:

“*The selection Committee shall, after considering the cases of candidates on the basis of lists referred to in sub-rule (2), prepare subjectwise lists of selected candidates for appointment in L.T,. Grade in order of merit as disclosed by the quality points complied under sub-rule (2). If two or more candidates obtained equal quality points the name of the candidate who is older in age shall be placed higher in list. The number of names in the list shall be larger (but not larger*

by more than 25 per cent) than the number of vacancies advertised under sub-rule (1)."

12. APPENDIX 'D'

[See Rule 15(2)]

Quality points for selection by direct recruitment

Name of examination	Quality Points		
1. High School	The Percentage of marks / 10		
2. Intermediate	The Percentage of marks x 2 / 10		
3. Graduate Degree	The Percentage of marks x 4 / 10		
Others:			
4. Training: I Division II Division III Division	1st Div.	2nd Div.	3rd Div.
(a) Theory	12	6	3
(b) Practical	12	6	3
5. Post Graduate Degree	15	10	5

The petitioner have alleged that if quality point marks are given to them for B.Ed. degree they would have been selected for the posts of L.T. Grade teachers.

According to the petitioners the Chief Secretary U.P. has passed an order on 19.9.1996, regarding recognition of the National Correspondent Institute, Kanpur. The petitioners have submitted that they approached the respondents for awarding quality points marks but respondents have rejected the prayer of the petitioners on the ground that the National Correspondent Institute, Kanpur is not recognized.

In view of above, liberty is given to the petitioners to file a representation to the competent authority within 15 days after obtaining the certified copy of this order, which shall be decided within one month thereafter. If the petitioners are found

eligible for the post of Assistant Teacher, L.T. Grade, their appointment against the vacant posts be considered forthwith.

Accordingly, the writ petitions are allowed.

No order as to costs.

(**Rajesh Tandon, J.)**

Dated: 18.3.2006
*Dhyani